

## Bureau of Indian Affairs, Interior

## § 67.1

projects that show promise of successfully preventing and treating family violence, child abuse, and child neglect.

### § 63.36 What are the special requirements for Indian child protection and family violence prevention programs?

(a) Each tribe must develop appropriate standards of service, including caseload standards and staffing requirements. The following caseload standards and staffing requirements are comparable to those recommended by the Child Welfare League of America, and are included to assist tribes in developing standards for Indian child protection and family violence prevention programs:

(1) Caseworkers providing services to abused and neglected children and their families have a caseload of 20 active ongoing cases and five active investigations per caseworker.

(2) Caseworkers providing services to strengthen and preserve families with children have a caseload of 20 families. If intensive family-centered crisis services are provided, a caseload of 10 families per caseworker is recommended.

(3) It is recommended that there be one supervisor for every six caseworkers.

(b) The negotiation and award of contracts, grants, or funding agreements under these regulations must include the following requirements:

(1) Performance of background investigations to ensure that only those individuals who meet the standards of character contained in § 63.12 are employed in positions which involve regular contact with or control over Indian children.

(2) Submission of an annual report to the contracting officer's representative which details program activities, number of children and families served, and the number of child abuse, child neglect, and family violence reports received.

(3) Assurance that the identity of any person making a report of child abuse or child neglect will not be disclosed without the consent of the individual and that all reports and records collected under these regulations are con-

fidential and to be disclosed only as provided by Federal or tribal law.

(4) Assurance that persons who, in good faith, report child abuse or child neglect will not suffer retaliation from their employers.

### §§ 63.37—63.50 [Reserved]

## PART 67—PREPARATION OF A ROLL OF INDEPENDENT SEMINOLE INDIANS OF FLORIDA

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AUTHORITY: 5 U.S.C. 301; 25 U.S.C. 2 and 9; and Pub.L. 101-277, 104 Stat. 143.

SOURCE: 59 FR 3291, Jan. 20, 1994, unless otherwise noted.

### § 67.1 Definitions.

As used in this part:

*Act* means the Act of Congress approved April 30, 1990, Public Law 101-277, 104 Stat. 143, which authorizes the use and distribution of funds awarded the Seminole Indians in Dockets 73, 151, and 73-A of the Indian Claims Commission.

*Adopted person* means a person whose natural parents' parental rights have been terminated by court order and persons other than the natural parents have exercised or do exercise parental rights with regard to the adopted person.

*Applicant* means a person who is making application for inclusion on the roll prepared by the Secretary pursuant to the Act of April 30, 1990, by either personally filing an application or

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by having a sponsor complete and file an application on his or her behalf.

*Assistant Secretary* means the Assistant Secretary for Indian Affairs or authorized representative.

*BIA* means the Bureau of Indian Affairs, Department of the Interior.

*Commissioner* means the Commissioner of Indian Affairs or authorized representative.

*Director* means the Area Director, Eastern Area Office, Bureau of Indian Affairs or authorized representative.

*Lineal descendant(s)* means those persons who are the issue of the ancestor through whom enrollment rights are claimed; namely, the children, grandchildren, etc. It does not include collateral relatives such as brothers, sisters, nieces, nephews, cousins, etc., or adopted children, adopted grandchildren, etc.

*Living* means born on or before and alive on the date specified.

*Secretary* means the Secretary of the Interior or authorized representative.

*Sponsor* means any person who files an application for enrollment or an appeal on behalf of another person.

*Superintendent* means the Superintendent, Seminole Agency, Bureau of Indian Affairs or authorized representative.

### § 67.2 Purpose.

The regulations in this part govern the compilation of a roll of persons who meet the requirements specified in section 7 of the Act who will be eligible to share in the distribution of a portion of the judgment funds awarded the Seminole Indians in Dockets 73, 151, and 73–A of the Indian Claims Commission.

### § 67.3 Information collection.

The information collection requirement contained in this part does not require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

### § 67.4 Qualifications for enrollment and the deadline for filing application forms.

(a) The roll shall contain the names of the persons of Seminole Indian descent who:

(1) Were born on or before, and living on April 30, 1990;

(2) Are listed on or who are lineal descendants of persons listed on the annotated Seminole Agency Census of 1957 as Independent Seminoles; and

(3) Are not members of an Indian tribe recognized by the Secretary on the most recent list of such Indian tribes published in the FEDERAL REGISTER.

(b) To qualify for enrollment, all persons must file application forms with the Superintendent, Seminole Agency, Bureau of Indian Affairs, 6075 Stirling Road, Hollywood, Florida 33024 by June 19, 1994. An application filed after June 19, 1994 will be rejected for failure to file on time regardless of whether the applicant otherwise meets the qualifications for enrollment.

### § 67.5 Notices.

(a) The Director shall give notice to all Area Directors of the BIA and all Superintendents within the jurisdiction of the Director of the preparation of the roll for public display in BIA field offices. Notices shall be placed for public display in community buildings, tribal buildings and Indian centers.

(b) The Superintendent shall, on the basis of available residence data, publish, and republish when advisable, notices of the preparation of the roll in appropriate localities utilizing media suitable to the circumstances.

(c) Notices shall advise of the preparation of the roll and the relevant procedures to be followed, including the qualifications for enrollment and the deadline for filing application forms to be eligible for enrollment. The notices shall also state how and where application forms may be obtained, as well as the name, address, and telephone number of a person who may be contacted for further information.

### § 67.6 Application forms.

(a) Application forms to be filed by or for applicants for enrollment shall be furnished by the Area Director, Superintendent, or other designated persons upon written or oral request. Each person furnishing application forms shall keep a record of the names of individuals to whom forms are given, as well as the control numbers of the forms

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and the date furnished. Instructions for completing and filing application forms shall be furnished with each form. The form shall indicate prominently the deadline date for filing application forms.

(b) Among other information, each application form shall contain:

(1) Certification as to whether the application form is for a natural child or an adopted child of the parent through whom eligibility is claimed.

(2) If the application form is filed by a sponsor, the name and address of the sponsor and the sponsor's relationship to the applicant.

(3) A control number for the purpose of keeping a record of forms furnished to interested individuals.

(4) Certification that the information given on the application form is true to the best of the knowledge and belief of the person filing the application. Criminal penalties are provided by statute for knowingly filing false information in such applications (18 U.S.C. 1001).

(5) An election by the applicant as to whether the applicant, if determined to meet the qualifications for enrollment, wishes to share in the per capita payment.

(c) Sponsors may file application forms on behalf of other persons, but may not file elections to share in the per capita payment.

(1) The election to share in the per capita payment shall be made as follows:

(i) If the applicant is a competent adult, the election shall be made by the applicant.

(ii) If the applicant is not a competent adult, the election shall be made by the applicant's legal guardian.

(iii) If the applicant is a minor, the election shall be made by the applicant's parent or legal guardian.

(2) When an application is filed by a sponsor, the Superintendent shall:

(i) Furnish the sponsor a copy of the application for forwarding to the applicant or his/her guardian for completion of the election to share in the per capita payment; and

(ii) Make a reasonable effort to furnish a copy of the application directly to the applicant or his/her guardian for

completion of the election to share in the per capita payment.

(d) Every applicant or sponsor shall furnish the applicant's mailing address on the application form. Thereafter, the applicant or sponsor shall promptly notify the Superintendent of any change in address, giving appropriate identification of the applicant. Otherwise, the mailing address as stated on the application form shall be accepted as the address of record for all purposes under the regulations in this part.

### § 67.7 Filing of application forms.

(a) Application forms filed by mail must be postmarked no later than midnight on the deadline date specified in § 67.4(b). Where there is no postmark date showing on the envelope or the postmark date is illegible, application forms mailed from within the United States, including Alaska and Hawaii, received more than 15 days after the specified deadline, and application forms mailed from outside of the United States received more than 30 days after the specified deadline in the office of the Superintendent, will be rejected for failure to file in time.

(b) Application forms filed by personal delivery must be received in the office of the Superintendent no later than close of business on the deadline date specified in § 67.4(b).

(c) If the deadline date for filing application forms falls on a Saturday, Sunday, legal holiday, or other non-business day, the deadline will be the next working day thereafter.

### § 67.8 Burden of proof.

The burden of proof rests upon the applicant to establish eligibility for enrollment. Documentary evidence such as birth certificates, death certificates, baptismal records, copies of probate findings, or affidavits may be used to support claims of eligibility for enrollment. Records of the BIA may be used to establish eligibility.

### § 67.9 Action by Superintendent.

(a) The Superintendent shall notify each individual applicant or sponsor, as

applicable, upon receipt of an application. The Superintendent shall consider each application and all documentation. Upon determining an individual's eligibility, the Superintendent shall notify the individual; the parent or guardian having legal custody of a minor or incompetent adult; or the sponsor, as applicable.

(1) Written notification of the Superintendent's decision shall be sent to the applicant by certified mail, for receipt by the addressee only, return receipt requested.

(2) If a decision by the Superintendent is sent out of the United States, registered mail will be used. If a certified or registered notice is returned as "Unclaimed," the Superintendent shall remail the notice by regular mail together with an acknowledgment of receipt form to be completed by the addressee and returned to the Superintendent. If the acknowledgment of receipt is not returned, computation of the period specified for changes in election and for appeals shall begin on the date the notice was remailed. A certified or registered notice returned for any reason other than "Unclaimed" need not be remailed.

(3) If an individual files an application on behalf of more than one person, one notice of eligibility or adverse action may be addressed to the person who filed the applications. However, the notice must list the name of each person to whom the notice is applicable. Where an individual is represented by a sponsor, notification to the sponsor of eligibility or adverse action shall be considered notification to the individual.

(b) On the basis of an applicant's election with regard to whether he or she wishes to share in the per capita payment, the Superintendent's decision shall also state whether the applicant's name will be included on the per capita payment roll. If no election has been made by the applicant, parent, or legal guardian on the application form, the individual applicant's name will not be included on the per capita payment roll.

(1) The eligible individual will have 30 days from notification of his or her eligibility in which to request a change in the election of whether to share in

the per capita payment. Computation of the 30-day period will be in accordance with § 67.9(a)(2) and § 67.9(d). Upon written request received within the 30-day period, to avoid hardship or gross injustice, the Superintendent may grant an applicant additional time, not to exceed 30 days, in which to submit a request for a change in election.

(2) A change in the election of whether to share in the per capita payment can only be made by competent adult applicants; by the legal guardian of an incompetent adult; or, in the case of a minor, by the minor's parent or legal guardian.

(c) If the Superintendent determines that an applicant is not eligible for enrollment as an Independent Seminole Indian of Florida, the Superintendent shall notify the applicant of the decision and shall fully explain the reasons for the adverse action and explain the rejected applicant's right to appeal to the Area Director. The decision of the Area Director shall be final and conclusive.

(d) Except as provided in paragraph (a)(2) of this section, a notice of adverse action concerning an individual's enrollment eligibility or the inclusion or exclusion of an individual's name on the per capita payment roll is considered to have been made, and computation of the period for appeal shall begin on the earliest of the following dates:

(1) Delivery date indicated on the return receipt;

(2) Date of acknowledgment of receipt;

(3) Date of personal delivery; or

(4) Date of return by the post office of an undelivered certified or registered letter.

(e) To avoid hardship or gross injustice, the Area Director or the Superintendent may waive technical deficiencies in application forms or other submittals. Failure to file by the deadline date does not constitute a technical deficiency.

#### § 67.10 Appeals.

(a) Appeals from or on behalf of applicants who have been rejected for enrollment must be in writing and must be filed pursuant to part 62 of this chapter. When the appeal is on behalf of more than one person, the name of

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each person must be listed in the appeal.

(b) A copy of part 62 of this chapter shall be furnished with each notice of adverse action. All sections of part 62 shall be applicable to appeals filed under this part except §§ 62.10, 62.11 and 62.12.

### § 67.11 Decision of the Area Director on appeals.

(a) The Area Director will consider the record as presented, together with such additional information as may be considered pertinent. Any additional information relied upon shall be specifically identified in the decision.

(b) The decision of the Area Director on an appeal shall be final and conclusive, and written notice, which shall state that the decision is final and conclusive, shall be given to the individual applicant, parent, legal guardian, or sponsor, as applicable.

(c) If an individual files an appeal on behalf of more than one applicant, one notice of the Area Director's decision may be addressed to the person who filed the appeal. The Area Director's decision must list the name of each person to whom the decision is applicable. Where an individual applicant is represented by a sponsor, notification to the sponsor of the Area Director's decision is sufficient.

(d) Written notice of the Area Director's decision on the appeal shall be sent to the applicant by certified mail, to be received by the addressee only, return receipt requested.

(1) On the basis of the individual's election with regard to whether he or she wishes to share in the per capita payment, the Area Director's decision shall also state whether the individual's name will be included on the per capita payment roll. If no election is made by the individual applicant, parent, or legal guardian, the individual's name will not be included on the per capita payment roll.

(2) The eligible individual will have 30 days from notification of his or her eligibility in which to request a change in the election of whether to share in the per capita payment. Computation of the 30-day period will be in accordance with § 67.9(a)(2) and § 67.9(d). Upon written request received within the 30-

day period, to avoid hardship or gross injustice, the Area Director may grant additional time, not to exceed 30 days, in which to submit a request for a change in election.

(3) The change in the election of whether to share in the per capita payment can only be made by adult applicants, or by the legal guardian of an incompetent adult, or in the case of minors, by the parents or legal guardian of such minors.

### § 67.12 Exhaustion of administrative remedies.

The decision of the Area Director on appeal, which shall be final for the Department, is subject to judicial review under 5 U.S.C. 704.

### § 67.13 Preparation, certification and approval of the roll.

(a) The Superintendent shall prepare a minimum of three (3) copies of the roll of those persons determined to be qualified for enrollment as an Independent Seminole Indian of Florida. The roll shall contain for each person a roll number or identification number, name, address, sex, date of birth, date of death (when applicable), and the name and relationship of the ancestor on the annotated Seminole Agency Census of 1957 through whom eligibility for enrollment was established.

(b) A certificate shall be attached to the roll by the Superintendent certifying that to the best of his or her knowledge and belief, the roll contains only the names of those persons who were determined to meet the qualifications for enrollment.

(c) The Area Director shall approve the roll.

### § 67.14 Preparation of a per capita payment roll.

(a) The Superintendent shall, based on the roll approved under § 67.12(c), prepare a per capita payment roll. The payment roll shall be comprised of those persons whose names appear on the approved roll and who have elected to share in the per capita payment.

(b) The per capita payment roll shall contain for each person a roll number or identification number, name, and address.

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(c) The Area Director shall authorize the distribution of the judgment funds to those persons named on the per capita payment roll.

### § 67.15 Special instructions.

To facilitate the work of the Superintendent and Area Director, the Assistant Secretary may issue special instructions not inconsistent with the regulations in this part.

## PART 75—REVISION OF THE MEMBERSHIP ROLL OF THE EASTERN BAND OF CHEROKEE INDIANS, NORTH CAROLINA

Sec.

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AUTHORITY: Sec. 2, 71 Stat. 374.

SOURCE: 24 FR 201, Jan. 8, 1959, unless otherwise noted. Redesignated at 47 FR 13327, Mar. 30, 1982.

### § 75.1 Definitions.

As used in this part:

(a) *Band* means the Eastern Band of Cherokee Indians in North Carolina.

(b) *Reservation* means the lands of the Eastern Band of Cherokee Indians in the counties of Jackson, Swain, Graham, Cherokee and Haywood in North Carolina.

(c) *Tribal Council* means the Tribal Council of the Eastern Band of Cherokee Indians in North Carolina.

(d) *Announcement* means the announcement of the revision of the

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membership roll issued as required in § 75.3.

(e) *Tribal Enrollment Office* means the Tribal Enrollment Clerk working in concert with the Enrollment Committee.

(f) *Tribal Enrollment Clerk* means the individual working in the Tribal Enrollment Office.

(g) *Enrollment Committee* means the three individuals appointed by the Tribal Council in accordance with § 75.12.

[24 FR 201, Jan. 8, 1959, as amended at 25 FR 2516, Mar. 25, 1960; 38 FR 9998, Apr. 23, 1973. Redesignated at 47 FR 13327, Mar. 30, 1982]

### § 75.2 Purpose.

The regulations in this part are to govern the revision, as authorized by the Act approved August 21, 1957 (71 Stat. 374), of the membership roll of the Eastern Band of Cherokee Indians, North Carolina, prepared and approved in accordance with the Act of June 4, 1924 (43 Stat. 376), and the Act of March 4, 1931 (46 Stat. 1518).

### § 75.3 Announcement of revision of roll.

When the Tribal Council has authorized the expenditure of tribal funds to supply sufficient staff to perform the work necessary to revise the membership roll of the Band and such staff has been employed and when the application forms and other necessary documents have been devised and printed, the Principal Chief, or in his absence the Vice Chief or the Chairman of the Tribal Council shall announce that a revision of the membership roll of the Band shall commence on a specified date. The date specified shall be not less than 15 days nor more than 30 days from the date of issuance of the announcement. A press release should be prepared announcing the date the revision of the roll shall begin, together with other pertinent information such as the membership requirements and where application forms may be obtained. The press release should be distributed to all newspapers and radio stations within the region of the Reservation with a request that it be given wide publicity. Copies of the press release should also be posted in the Agency Office and at various other public